

REMARKS

Applicant has carefully reviewed the Office Action mailed December 26, 2007 and offers the following remarks. Applicant also submits a **Statement of Common Ownership** under 35 U.S.C. § 103(c).

Claims 1, 4, 6-27, 30, and 32-40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,430,176 B1 to Christie, IV (hereinafter "Christie") in view of U.S. Patent Application Publication No. 2003/0227908 A1 to Scoggins et al. (hereinafter "Scoggins"). Applicant respectfully traverses. For the Patent Office to establish *prima facie* obviousness, the Patent Office must show where each and every element of the claim is taught or suggested in the combination of references. MPEP § 2143.03. If the Patent Office cannot establish obviousness, then the claims are allowable.

Applicant respectfully traverses the rejections of claims 1, 4, 6-27, 30, and 32-40 under 35 U.S.C. § 103(a) in light of the fact that Scoggins and the present application were both owned by, or subject to an obligation of assignment to, the same entity at the time the present invention was made. 35 U.S.C. § 103(c) states that subject matter developed by another person, which qualifies as prior art only under 35 U.S.C. § 102(e), (f), or (g), shall not preclude patentability if the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See also MPEP § 706.02(l)(1) and (l)(2). Scoggins only qualifies as prior art under 35 U.S.C. § 102(e) because Scoggins was not published until December 11, 2003, after the December 3, 2003 filing date of the present application. Since Scoggins only qualifies as prior art under 35 U.S.C. § 102(e), and Scoggins and the present application were both owned, or subject to an obligation of assignment, to the same entity at the time the present invention was made, then 35 U.S.C. § 103(c) applies and Scoggins cannot be used to preclude patentability. Applicant hereby provides a statement of common ownership.

In light of the common ownership of Scoggins and the present application at the time that the present invention was made, Applicant respectfully requests that the rejections of claims 1, 4, 6-27, 30, and 32-40 under 35 U.S.C. § 103(a) as being unpatentable in view of Christie and Scoggins be withdrawn.

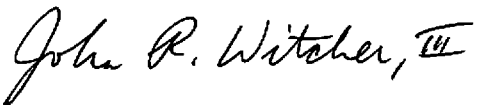
STATEMENT OF COMMON OWNERSHIP REQUIRED BY 35 U.S.C. § 103(c)

Applicant hereby makes a statement that the present application and U.S. Patent Application Publication No. 2003/0227908 A1 to Scoggins were, at the time the invention of the present application was made, both owned by Nortel Networks Limited, or subject to an obligation of assignment to Nortel Networks Limited, the assignee of the present application.

The present application is now in condition for allowance and such action is respectfully requested. The Examiner is encouraged to contact Applicant's representative regarding any remaining issues in an effort to expedite allowance and issuance of the present application.

Respectfully submitted,

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